

(34)
A BRIEF

DISCOUR

Concerning that

CEREMO

OF

Laying the Hand

ON THE

BIBLE

IN

SWEARING.

By *SAMUEL WILLARD*,
Teacher of a Church at *Boston* in *New-England*.

L O N D O N, Printed by *J. A.* in the Year 1689.

191 (34)

THE

NEW

TESTAMENT

AND

THE

OF THE

OF THE

TO THE
READER.

That many good and very learned Men have doubted the lawfulness of Kissing or Touching the Book in taking a solemn Oath, cannot be deny'd; those great and famous Divines, Rivet, Pareus, Voetius, have all written against it; and that worthy Confessor and Martyr, Mr. William Thorp, did refuse to comply with the mentioned Mode of Swearing; and he saith, that Chrysostom was against the Book-Oath, as he styles it; he thus argues, "If I touch the Book, the meaning of that Ceremony is nothing else but that I swear by it, when as it is not lawful to swear by any Creature, vid. Fox's Martyrol. Vol. 1. p. 705, &c. In Scotland and other Reformed Churches abroad, that Ceremony is not used; and in our own Courts of Admiralty, another Form of Swearing is frequently practised. That some here in England forty years ago were scrupulous about this matter, we may be assured, in that the Parliament in the Year 1649. in the Oath which they enjoyned on Mayors and other Magistrates, inserted a Proviso as to the Mode in Swearing, that so doubting Consciences might not be ensnared, vid. Scobell's Collections, chap. 51. It is well known that those famous Divines, Dr. Thomas Goodwin, Mr. Philip Nye, and
A 2 Mr.

To the Reader.

Mr. Jeremiah Burroughs, did judge the impleaded Rite to be unwarrantable by the Word of God; and why should it be imposed, when thereby the King may be deprived of the service of many good Subjects, who have perhaps weak but tender Consciences? But as for Papists, they say, that to swear on a Protestant Bible is no more than swearing on Æsop's Fables. It seems also to be of weighty Consideration, that Kissing in a religious way is a gesture of Adoration: Hence the Israelites kissed the Calves of Dan and Bethel, Hos. 13. 2. The Gentiles (and after them the Papists) were wont to kiss their Images, as a signification that they did VVorship them. But though we ought to reverence the blessed Bible above all other Books, yet we may not VVorship it, but the Author of it only. Athanasius of old would not use any other Rite in Swearing besides that of lifting up the Hand to Heaven.

The Reader (I hope) will find satisfaction in that brief and nervous Discourse which is emitted heryewith, and was written by a judicious and worthy Hand. It is likewise to be hoped that this Disputation may excite others to enquire into, and further clear the controverted Question, which is the thing designed in this publication.

M. I.

A



A
Brief ESSAY

To the Resolution of that

QUESTION,

VIZ

*Whether the English Custom of Laying the
Hand upon the BIBLE in Swearing
be Lawful?*

IT had been altogether needless to have engaged in this Controversie at this time, had not the stress which is laid upon this Ceremony, and the apparent evils arising from such an Imposition enforced it; might those who make Conscientious Scruples about it have been permitted to use their Christian Liberty, (such as I am fully perswaded is granted them in his Majesties Gracious Declaration, and was for some while in Practice among us) I am of the mind that there would not have been so much enquiry made about it, as Men by this occasion think themselves concerned to make :

make: but the apprehensions which have been caused by what Entertainment the refusing of this Rite hath met withal, have made it requisite that Mens Consciences be rightly informed in this Article.

I am not ignorant that a Man may be superstitious in needless scrupulosities, as well as in using of unlawful Ceremonies; but then it will be requisite to make a close enquiry into the matter, Whether the suspecting of the lawfulness of so Swearing be such superstition? and when some Men do make so much of it, it will put thinking Persons upon a more accurate Consideration about the thing. If there be indeed nothing in it, it is pity that wise and honest Men should trouble others, or expose themselves, their Reputation and Estate by refusing it. And if it be a thing forbidden by God, I am sure tender Consciences will be deeply concerned to save their inward Peace, whatsoever it may cost them: For the satisfaction therefore of such, and at the earnest desire of sundry of them, I have essayed to search after the mind of God in this Case; in the solution whereof, I only design the reducing of it to the known and approved Maxims of Non-conformists, it being in compliance with the request of some such Men that I am thus engaged; less therefore will need to be said to it than would otherwise be requisite: For there are divers *Postulata*, or Preliminary Conclusions, which belong to the solution, which will be taken for granted by all that are any whit grounded in the Principles of Non-conformity, and require only to be named, since all their Writings on this subject furnish us with convincing evidence of the truth of them; and they are such as these,

1. That all Religious Worship not Commanded by God, is forbidden.

2. That all Symbolical Ceremonies enjoyed Men in Religious Worship, are made Parts of Worship, and consequently, if not Commanded, forbidden.

3. That

3. That all such things imposed upon Men, are an infringement of their Liberty of Conscience, and an exposing them to sin.

4. That things indifferent are to be avoided, in Case of Scandal arising by the use of them, and it is a sin not to avoid them.

5. That no Practice of holy and good Men is sufficient to warrant my Practising after them, or ought to satisfy my Conscience.

These things supposed, (and it were easie to prove them, were it not already done) I proceed to the matter under Consideration, and to wave a tedious Discourse, and omit many things that might here be said, I shall endeavour to reduce it to a Point in which the matter will be obvious.

Let it then be considered,

1. That in or about Swearing before Civil Authority, there are two things which must be distinctly considered. 1. The Matter about which it is conversant; and that is a Testimony, whether Assertory or Promissory: There is something that a Man swears to, and this out of doubt belongs to the second Table of the Moral Law, and the Ninth Commandment, and is no part of Worship, but a thing meerly Civil. 2. The Confirmation of this Testimony by the Oath, and this none that I know of ever questioned but that it belongs to Worship, and is generally referred to the first Table, and the third Command; (though considered as a part of Natural Worship, it is also to be referred to the first Command) it being an Invocation of God, a solemn Appeal to him, and (at least) an implicit Imprecation against our selves, if we speak falsely; and therefore calls for holy fear and reverence of him whose Name is thus called upon.

2. That

2. That to an Oath so given there is a double respect to be had. 1. To the use of it, which is Civil; it being appointed for the putting of an end to Controversies between Men, for the confirmation of Truth, and obligation of Men most firmly unto fidelity in all the trust that is reposed in them, so far as humane Prudence can reach. 2. To the Form of it, and that is purely Religious, because in Swearing I do after the most solemn manner address my self to God, who is the searcher of Hearts, and knows if I lye or dissemble; and call him to witness upon my Soul: Yea, so essential a piece of Religion is Swearing, that it is in Scripture Metonymically put for all Religion, *Psal.* 63. 11. *Isa.* 19. 18. It is indeed a solemn Prayer, and so an act of Worship.

3. That Ceremonies which are or may be used in Swearing come under a twofold consideration. 1. Such as may be merely Civil, *viz.* Such as are the Notices by which it may be known who is the Person swearing; and may be expressive of his consent to, and being engaged in the Oath which is administered; concerning which Ceremonies I make no doubt but that whatsoever Civil Authority shall enjoin to be an Indication of the Person, and a witness of his voluntary accepting the Oath, and acknowledging himself under the Obligation of it, may be lawfully submitted to, and needs not to be disputed by him who is called to swear, always provided there be no Profaneness in the Case. 2. Such as are Religious, *viz.* that are used to strengthen or confirm the Oath, to add more solemnity to it, to oblige the Person that takes it unto greater care and caution, or to strengthen the credit of Testimony the more: Concerning all which it must be asserted, that they are undoubted Appendages to Religious Worship, and must therefore be tryed by the Propositions laid down, the respect being not Civil but purely Religious; for whatsoever is used as a religious mean, to make me more serious in a Religious action, must needs be so, and hence it must be either Natural or Instituted.

4. That an Oath being a solemn Prayer and Appeal, it hence ought to be made to God alone: That Men are to swear by God only, is a Truth so fully clear in Scripture, that no Man that is a Christian can call it in question; if therefore in Swearing I appeal to any but God, I am guilty of false Worship, *Deut. 6. 13. Jer. 5. 7.* and great reason, for there is none else can detect us, and punish us if we be found forsworn.

5. That whatsoever is sworn by, is not a meer Medium, but an Object of Worship: If I appeal to the God who is the Author of this Bible, I then make it a Ceremony, and am only questionable about the lawfulness of using such a stated Medium; but if I appeal to God and the Bible, then I make it a divine Object of my Adoration: Hence Swearing by any thing is understood in Scripture for making the thing we swear by our Object, *Jer. 5. 7. Matth. 5. 34, &c.* and then the Question is, Whether this be the true God, or an Idol?

Upon these Premises there will now need nothing more to be enquired after, but only, Whether the laying the Hand upon the Book in Swearing may be accounted a Civil sign merely, and such as may be used by Men? or, Whether it be not certainly a part of religious Worship, according to Law, Usage and Custom? And if it appears to be the latter, no Non-conformist can ever consent to it, 'till first he depart from his own Principles.

To prove therefore that it is and must be so, is sufficient to my present purpose, for the confirmation whereof, I offer these Arguments.

1. It is so by the true, proper, and unquestionable intent of the Law by which it is required: And hence it must needs be so interpretatively of every one that useth it in compliance with that Law. It is a Truth beyond suspicion, that a Man's actions are not interpretable, according to his own private sense and pretended meaning, but according to the common usage in which such actions are taken, and for Men to pretend to another meaning, is practical Equivocation. The Primitive Christians knew, that to cast Frankincense into the Fire upon an Idol's Altar, would be Interpretative sacrificing to that

Idol, let their reserved meaning be what it would, and therefore they refused to do it. He therefore that complies with any thing required in the Law, is truly reputed by all Men to comply with the Law in the true and plain meaning of it. Now that this is the indisputable sence of the Law, is evident; for what else is Swearing by the Book but such? If we consult the Statute-Law, possibly there is no clearer mention of this appeal there, than what is in the Oath of Supremacy, which in so many words joyns the Invocation of God, and swearing by the Contents of the Book. If we look to the Common Law, let all old Presidents speak, which tell us that it is done *Per sacra Dei Evangelia*, by the Holy Gospels; and this cannot intend only a signification of the Persons swearing, and their consent, but expressly declares an appeal to the Book, which was never appointed by God to be a Ceremony, much less an Object of my Appeal. And if we look to the Canon Law, whence it borrows its Original, none need to be ignorant that it was intended to put a religious respect on the Book, by the Authors of it, whose very Principles plead the justification of a Religious Worship due to some Creatures.

2. It is so by the Confession of those that have used it, and plead for it: What else is intended, when in their Self-Justification, they tell us it is done to put the more Solemnity upon the Oath; and that their meaning is, that they do hereby significantly renounce all the benefits promised to Christians in this Book, and invoke the Curses of it upon themselves, if they lye? and this must of necessity be more than the bare Indigitation of the Person, and nothing less than a Religious Application; which hath not the Authority of God for it, being neither a Natural, nor Instituted Medium.

3. It is so by the very thing that is chosen and appointed to be made use of, *viz.* the Holy Bible, or Gospels: For, were it only to signify the Person and his Consent, why might not any other thing do as well? Yea, why might not lifting up the Hand be better approved, which is in Civil Law, used as a Civil Sign, by which a Man is called to signify that he is the Person arraigned, and consents to his being

tried

tried by the Authority of the Court where he stands to be Judged; and is also a natural Sign accompanying of Prayer, or an outward signification of Mens appealing to God in Prayer? This Book therefore must needs have bin made choice of with a Religious respect.

4. It can be no Salvo to Mens Consciences, for this or that particular Judge, or any Men in subordinate Authority, to say, That they intend nothing else by it, when they impose it, but only the Notification of the Person, and signifying that he doth now take the Oath: for the Sence of the Law is always one and the same: And though it must be granted necessary that Judges are, in case of difficulty and dubiousness, to interpret the meaning of the Law, to Men concerned to Act according to it; yet if they should give a sense evidently other than the Law will bear, it can hardly be thought obliging; to be sure, where the sence of the Law is clear and plain, their interpreting it otherwise cannot satisfie one that knows it is not the meaning: For if so, what force can there be in a Law, or what safety can the Subject pretend to himself in measuring his Actions by it, because that which is the sence of it to day, may be repugnant to it to morrow.

5. It doth no whit mend the matter, that of late, those words [*and the Contents of this Book*] are omitted in the giving or administering of the Oath, it being only a Snare laid before Men, and no real favour to them, as not in Truth affording any abatement upon the Consciences of such as are judicious; and that is, because the same thing is intended in the Law, and is every whit as much signified by the Act of Laying on the Hand, it being the sence of the Law, in Obedience whereunto it is done: And Actions do speak as forcibly as Words. Except therefore the Law it self could cease, or lose its sence, the omission of a word explicatory mitigates it not; because all that know the meaning of the Law, know what the Action signifies according to it.

6. Hence

6. Hence, in the Conscience of all Men, and considering Men, he that lays his Hand on the Book, whatever his reserved meaning to himself be, is under such an Interpretation as this; and it is really a matter of scandal to such as count it unlawful so to swear, and though he Swears with never so many secret reserves to himself, he cannot possibly avoid this Censure.

7. It is also to be observed, That whereas the Nature of Swearing is principally contained in the Solemnity of the Appeal which men make, there is no other solemn Cautious and Religious obligation, laid upon Men to make them afraid of Perjury, in the accustomed way of administering an Oath, but only in the act of Laying the Hand on the Book, and that one word, *So help you God*; which calls for a serious Observation, and speaks the design of the Ceremony.

8. Besides, it makes the Conclusion I have asserted, further evident, if we consider that some Men say, That no Man can be legally indicted for Perjury, except he have Sworn upon the Book; which if legally true, tells us, that the Law makes it Essential to the Oath it self, and a part of the Religious Act of Swearing.

9. He that invokes such a thing as his Helper in his Prayer, doth certainly make it of the Object which he prays unto: And he who lays his Hand on the Book (whether he do it intentionally or no) doth it interpretatively: And whether this be not to make it more than a meer Ceremony, and to greaten the blame of him who doth so swear, let all judicious Men determine.

Much more might be said concerning this Subject; but this may help sufficiently to settle the Judgments, and satisfy the Consciences of any that are Scrupulous; which is my farther aim in this Script; as being not desirous to offer any Provocation to one or other; but only studious to discharge a Moral Duty lying upon me; to satisfy (as far as I may) the Consciences of them that ask it of me; in such matters as properly and immediately concern God and Religion.